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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,297	06/20/2001	Everett Lee Mitchell	3374-4-1-1	8096

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/886,297

Applicant(s)

MITCHELL, EVERETT LEE

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-103 is/are pending in the application.
- 4a) Of the above claim(s) 53-55 and 90-103 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6, 11, 13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Election/Restrictions

1. Claims 53-55, 90-103 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention of Group I, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 16.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 56, 58-60, 62-64, 67-76, 79-87 are rejected under 35 U.S.C. 102(b) as being anticipated by Ting (4840004).

Ting (figure 2) shows a wall system having at least a first perimeter framing member (19), at least a second perimeter framing member (18, 46), the first and second perimeter framing members engage one another (through the seals 23), wherein at least one of the first and second perimeter framing members defining a recess relative to exterior surfaces of the first and second panels (17), at least one of the first and second perimeter framing members having a plurality of drainage holes (35, 37), the plurality of drainage holes being in fluid communication with a gutter (34) located in an interior region behind the first and second panels and the first and second perimeter framing members, the gutter collects and provides to the drainage holes moisture located in the interior region for discharge into an exterior environment located exteriorly of the first and second framing members and first and second wall panels, a capillary break (30) positioned on at least one of the framing members, the break is spaced from the

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plurality of drainage holes and along with the surfaces of the recess defining a circulating chamber (31), whereby entry of terrestrial fluids into at least one of the plurality of holes is impeded, a first space between a free end of the capillary break and an opposing wall of the recess having a first vertical cross section area and a second spaced between opposing walls of a recess at a point between the break and the plurality of holes having a second vertical cross-sectional area and the second vertical cross sectional area is at least about 150% of the first vertical cross sectional area (the distance between the tip of the $\frac{1}{2}$ arrow and the opposing surface), at any location along the break, an adjacent edge of a nearest drainage hole(32, 35) is at least about 0.25 inch from a rear surface of the break (30), the centers of the plurality of drainage holes (37) lie along a common axis and wherein a distance of the holes above a free end of the break is at least about 125% of a distance from the free end of the break to an adjacent, opposing surface of the recess, the plurality of drainage holes are spaced at regular intervals along the at least one of the first and second framing members, a height of the break (30) ranges from about 125 to about 200% of a distance between a free end of the break and an adjacent, opposing surface of the recess, the holes(37) are located on one of the first and second members and the break (30) is located on the other of one of the members, the opening of the holes (37) being located on an at least substantially horizontal surface, the recess having a sloped lower surface (the surface to the left of 35) to permit terrestrial fluids in the chamber to flow along the surface and into the exterior environment and an adjacent edge of a nearest drainage hole being at least about 0.75 inch from the rear surface of the break, a surface of the break adjacent to the plurality of drainage holes being concave (the surface around holes 37) and the first and second wall panels being a composite of metal and plastic.

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4. Claims 56, 61, 65-67, 69, 77-80, 88-89 are rejected under 35 U.S.C. 102(b) as being anticipated by Ting (5452552).

Ting (figure 2a) shows a wall system having at least a first perimeter framing member (21), at least a second perimeter framing member (15,23), the first and second perimeter framing members engage one another (through the seals 28), wherein at least one of the first and second perimeter framing members defining a recess relative to exterior surfaces of the first and second panels (74,71), at least one of the first and second perimeter framing members having a plurality of drainage holes (68,38), the plurality of drainage holes being in fluid communication with a gutter (39) located in an interior region behind the first and second panels and the first and second perimeter framing members, the gutter collects and provides to the drainage holes moisture located in the interior region for discharge into an exterior environment (27) located exteriorly of the first and second framing members and first and second wall panels, a capillary break (34, 24) positioned on at least one of the framing members, the break is spaced from the plurality of drainage holes and along with the surfaces of the recess defining a circulating chamber (26), whereby entry of terrestrial fluids into at least one of the plurality of holes is impeded, the recess having a downwardly sloped lower surface (23) to permit terrestrial fluids in the chamber to flow along the lower surface and into the exterior environment and wherein an adjacent edge of a nearest hole is at least about 0.75 inch from a rear surface of the break, a surface of the break (24) adjacent to the drainage holes (38) is concave (form by the vertical and the lower curve flange) and wherein the first and second wall panels each is a composite of metal and plastic, the plurality of holes being located on the first perimeter framing member, the openings of the drainage holes being located on an at least substantially vertical surface (at 38)

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and the openings of the plurality of holes being located above a free end of the break (the free end of the flange at the middle of the break 15, 24), the break having a height and is separated by a gap from the first framing member and the height is at least about 100% of the width of the gap and the exterior surfaces of the first and second wall panels being at least substantially parallel and coplanar.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different wall structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Phi Dieu Tran A
July 12, 2003